

The opinion in support of the decision being  
entered today is not binding precedent of the Board.

Paper 1

Filed by: Carol A. Spiegel  
Administrative Patent Judge  
Box Interference  
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Filed: March 6, 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

QUIG WANG, MITCHELL H. FINER  
and XIAO-CHI JIA

Junior Party,  
Application 08/333,680

v.

IMRE KOVESDI, DOUGLAS E. BROUGH,  
DUNCAN L. MCVEY, JOSEPH T. BRUDER  
and ALENA LIZONOVA

Senior Party  
Application 08/258,416

Patent Interference No. 104,825 (CAS)

**NOTICE DECLARING INTERFERENCE**  
(37 CFR § 1.611)

**MAILED**

**MAR 08 2002**

**PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES**

**Part A. Declaration of interference**

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties.

Details of the application(s), patent (if any), reissue application (if any), count(s) and claims designated as corresponding or as not corresponding to the count(s) appear in Parts E and F of this NOTICE DECLARING INTERFERENCE.

**Part B. Judge designated to handle the interference**

Administrative Patent Judge Carol A. Spiegel has been designated to handle the interference. 37 CFR § 1.610(a).

**Part C. Standing order**

A Trial Section STANDING ORDER accompanies this NOTICE DECLARING INTERFERENCE. The STANDING ORDER applies to this interference.

**Part D. Conference call to set dates**

A telephone conference call to set dates for taking action in the interference is scheduled for **2:00 p.m. on May 14, 2002** (the call will be initiated from the PTO).

No later than **two business days** prior to the conference call, each party shall file and serve by facsimile a list of the preliminary motions the party intends to file. See § 17 of the STANDING ORDER.

A copy of a "sample" order setting times for taking action during the preliminary motion phase of the interference accompanies this NOTICE DECLARING INTERFERENCE.

Counsel are encouraged to discuss the order prior to the conference call with the view to coming to some mutual agreement as to dates for taking action. A typical preliminary motion period lasts approximately nine (9) months. Counsel should be prepared to justify any request for a shorter or longer period.

**Part E. The parties involved in this interference are:**

Junior Party

Named inventors: QING WANG,  
MITCHELL H. FINER and  
XIAO-CHI JIA

Application: 08/333,680,  
filed November 3, 1994

Title: Novel Adenoviral Vectors, Packaging Cell Lines,  
Recombinant Adenoviruses and Methods

Assignee: CELL GENESYS, INC.

Accorded Benefit: None

Attorneys: See last page

Address: See last page

Senior Party

Named Inventors: IMRE KOSVEDI,  
DOUGLAS E. BROUGH,  
DUNCAN L. MCVEY,  
JOSEPH T. BRUDER and  
ALENA LIZONOVA

Application: 08/258,416  
filed June 10, 1994

Title: Complementary Adenoviral Vector Systems and Cell Lines

Assignee: GENVEC

Accorded Benefit: None

Attorneys: See last page

Address: See last page

**Part F. Count and claims of the parties**

Count 1

The recombinant adenoviral vector of claim 46 of the '680 Wang application, wherein the two gene regions are E1 and E2A.

or

The adenoviral vector of claim 57 of the '416 Kovesdi application.

or

The adenoviral vector of claim 72 of the '416 Kovesdi application.

Count 2

The packaging cell line of claim 48 of the '680 Wang application, wherein the two gene regions are E1 and E2A.

or

The cell line of claim 41 of the '416 Kovesdi application.

Count 3

The replication-defective recombinant adenovirus of claim 37 of the '680 Wang application.

or

The adenoviral vector of claim 53 of the '416 Kovesdi application.

or

The adenoviral vector of claim 70 of the '416 Kovesdi application.

Count 4

The packaging cell line of claim 39 of the '680 Wang application.

or

The cell line of claim 38 of the '416 Kovesdi application.

Count 5

The recombinant adenoviral vector of claim 46 of the '680 Wang application.

or

The adenoviral vector of claim 59 of the '416 Kovesdi application.

Count 6

The packaging cell line of claim 48 of the '680 Wang application.

or

The cell line of claim 43 of the '416 Kovesdi application.

The claims of the parties are:

Wang: 37-48, 52, 54, 56-57

Kovesdi: 19-26, 36-87, 89-95

The claims of the parties which correspond to Count 1 are:

Wang: 46, 56

Kovesdi: 20-21, 24-26, 52, 56-58, 68-69, 72-73, 78-79, 84-87

The claims of the parties which correspond to Count 2 are:

Wang: 48

Kovesdi: 19, 36, 41-42, 89-90, 95

The claims of the parties which correspond to Count 3 are:

Wang: 37-38, 46-47, 52, 54, 56

Kovesdi: 20-21, 24-26, 52-56, 68-71, 78-79, 82, 84-87

The claims of the parties which correspond to Count 4 are:

Wang: 39-44, 57

Kovesdi: 19, 36-40, 89-90, 92-95

The claims of the parties which correspond to Count 5 are:

Wang: 37, 46, 54, 56

Kovesdi: 20-21, 24-26, 52-87

The claims of the parties which correspond to Count 6 are:

Wang: 48, 57

Kovesdi: 19, 36-41, 43-51, 89-90, 92-95

The claims of the parties which do not correspond to any of Counts 1 through 6, and therefore are not involved in the interference, are:

Wang: 45

Kovesdi: 22-23, 91

**Part G. Heading to be used on papers**

The following heading shall be used on papers filed in the interference. See  
§ 18 of the STANDING ORDER.

Paper \_\_\_\_<sup>1</sup>

Filed on behalf of [name of party]  
By: Name of lead counsel, Esq.  
Name of backup counsel, Esq.  
Street address  
City, State, and Zip-Code  
Tel:  
Fax:

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

QUIG WANG, MITCHELL H. FINER  
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Application 08/258,416

Patent Interference No. 104,825 (CAS)

TITLE OF PAPER

<sup>1</sup> Leave a blank line because the board assigns the paper number.



**Part H. Summary of dates for taking action**

Times for taking action are set out in the following sections of the STANDING ORDER:

1.     **§ 7:**           date for identifying lead and backup counsel.
2.     **§ 8:**           date for identifying any real party in interest.
3.     **§ 9:**           date for requesting copies of involved and benefit applications and patents.
4.     **§ 17:**          date for filing list of proposed preliminary motions.
5.     **§ 19:**          date for accomplishing certain discovery.
6.     **§ 20:**          date for filing clean copy of claims.
7.     **§ 21:**          date for filing clean copy of claims in cases with drawings and/or claims containing a means plus function limitation.
8.     **§ 23:**          dates for filing oppositions to Rule 635 miscellaneous motions and dates for filing replies to oppositions.
9.     **§ 33:**          date for objecting to admissibility of evidence.
10.    **§ 34:**          date for serving supplemental affidavits or evidence to respond to objection to admissibility of evidence.
11.    **§ 35:**          dates when cross-examination can take place.
12.    **§ 45:**          dates for taking action with respect to settlement discussions

**Part I. Order form for requesting file copies**

**FILE COPY REQUEST**

Interference 104,825 (CAS)

A copy of Part E of this NOTICE DECLARING INTERFERENCE should be attached to this FILE COPY REQUEST, with a circle by hand around the patents and applications for which a copy of a file wrapper is desired.

To facilitate processing of this FILE COPY REQUEST, the following information should be included:

1. Charge fees to USPTO Deposit Account No. \_\_\_\_\_
2. Complete address, including street, city, state, zip code and telephone number (do not list a Post Office box inasmuch as file copies are sent via commercial overnight courier).

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Telephone, including area code: \_\_\_\_\_

**Part J. Signature of administrative patent judge**

  
\_\_\_\_\_  
Carol A. Spiegel  
Administrative Patent Judge

Date: March 6, 2002  
Arlington, VA

Enc:

Copy of STANDING ORDER

Copy of order used for setting times for taking action in the preliminary motion phase of the interference (ORDERPM6)

Copy of order used for setting times for taking action in the testimony and briefing phases of the interference (ORDERTE6)

Copy of claims of 08/333,680

Copy of claims of 08/258,416

DECLARE.007  
Revised September, 2000  
(replaces DECLARE.006.1)

Interference No. 104,825  
Wang v. Kovesdi

Paper 1  
Page 12

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